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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HECTOR DEL RIO-GARIBAY,

Defendant.

Case No.: SA 08-597 M

ORDER OF DETENTION [8 U.S.C. § 1326]
[flight & danger]

Before the Court is the Government’s request for an order detaining the defendant on the ground that there is a serious risk defendant will flee. The Government is not entitled to a rebuttable presumption that no condition or combination of conditions will reasonably assure defendant’s appearance as required and the safety of any person or the community.

The Court has considered all of the evidence adduced at the hearing and the arguments and/or statements of counsel. The Court has also considered: (1) the nature and circumstances of the offenses; (2) the weight of evidence against the defendant; (3) the history and characteristics of the defendant; and (4) the nature and seriousness of the danger to any person or the community.

1 The Court finds that no condition or combination of conditions will reasonably assure the
2 defendant's appearance as required and the safety of the community, and that the defendant is a flight risk
3 and danger to the community because of the following factors:

- 4 (X) status as an illegal alien,
5 (X) insufficient bail resources,
6 (X) insufficient ties to the local community and strong ties to a foreign country,
7 () current state custodial status,
8 (X) use of aliases and/or multiple name variations,
9 () prior failure to appear,
10 (X) use of more than one birth date,
11 (X) unstable/lack of employment history,
12 (X) prior violations of parole,
13 (X) extensive criminal history,
14 (X) history of using or possessing illegal drug use or substance abuse,
15 (X) prior deportation, and
16 () _____.

17 (X) Pretrial Services's report and recommendation to detain the defendant for the
18 reasons set forth in the Pretrial Services's report.

19 IT IS THEREFORE ORDERED that defendant be: (1) detained prior to trial and committed to the
20 custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable,
21 from persons awaiting or serving sentences or being held in custody pending appeal; and (2) afforded
22 reasonable opportunity for private consultation with counsel. IT IS FURTHER ORDERED that, on order
23 of a Court of the United States or on request of any attorney for the Government, the person in charge of
24 the corrections facility in which defendant is confined deliver defendant to a United States marshal for the
25 purpose of an appearance in connection with a court proceeding.

26 Dated: October 16, 2008

27 /s/ Arthur Nakazato
28 ARTHUR NAKAZATO
UNITED STATES MAGISTRATE JUDGE